

7.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ORIGINAL

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

vs.

WOLVERINE BRONZE  
CO., INC.,

Defendant.

JUDGE : Steeh, George Caram  
DECK : S. Division Civil Deck  
DATE : 09/29/2004 @ 13:45:20  
CASE NUMBER : 2:04CV73813  
CMP EEOC V. WOLVERINE BRONZE  
(KC)

COMPLAINT  
AND JURY DEMAND

MAGISTRATE JUDGE MORCAN

NATURE OF THE ACTION

This is an action brought under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices and to provide appropriate relief to Tony Smith ("Smith") and similarly situated employees who were adversely affected by such practices. The Equal Employment Opportunity Commission ("The Commission"), alleges that Wolverine Bronze ("Defendant"), discriminated against Smith when it permitted him to be racially harassed by a supervisor and subjected to a hostile work environment. The Commission further alleges that the Defendant failed to take prompt, effective, remedial action to stop the harassment and correct the hostile work environment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, and 42 U.S.C.

2000e-5(f)(1) and (3).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of Michigan, Southern Division.

### **PARTIES**

3. Plaintiff, the Commission, is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Wolverine Bronze, has continually been a corporation doing business in the state of Michigan and the city of Roseville, and has continuously had in excess of fifteen (15) employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

### **STATEMENT OF CLAIMS**

6. More than sixty (60) days prior to the institution of this lawsuit, Tony Smith filed a charge of discrimination with The Commission alleging a violation of Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least April 2003, Defendant engaged in unlawful employment practices in violation of Title VII, when it permitted Smith to be racially harassed by a supervisor/co-owner and subjected to a hostile work environment.

8. The incidents of racial harassment in Defendant's facility were severe and pervasive.

9. Defendant had notice that Smith was being racially harassed by a supervisor/co-owner and otherwise subjected to a hostile work environment. The harassment included the following incidents:

- 1) Verbal abuse with racial references;
- 2) Repeated throwing of metal bolts at Smith;
- 3) Repeated deliberately tripping of Smith as he attempted to work; and
- 4) The placement of a large plastic bag over Smith's head and torso.

10. The effect of the conduct complained of in Paragraph 10, above, was to create a hostile work environment.

11. The effect of the unlawful employment practices complained of in paragraphs 7-10 was to deprive Smith of equal employment opportunities and otherwise adversely affect their status as employees because of his race.

12. As a result of the unlawful employment practices complained of above, Smith has suffered from fear, anxiety, emotional distress and loss of enjoyment of life.

13. The unlawful employment practices complained of above were and are done with malice or reckless indifference to the federally protected rights of Smith who was racially harassed and subjected to a hostile work environment.

#### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

- A. Order Defendant to provide training for all employees about diversity in the workplace and Title VII's prohibitions against racial harassment;

- B. Order Defendant to devise an appropriate method of discipline for employees who violate the prohibitions of Title VII and for supervisors who fail to remedy racial harassment in a reasonable period of time;
- C. Order Defendant to post its new disciplinary rules for violating Title VII in a conspicuous place;
- D. Grant the Commission an injunction enjoining Defendant from participating in any unlawful employment practices;
- E. Order Defendant to make whole Tony Smith by providing an appropriate amount of compensatory damages to be determined at trial along with any other affirmative relief necessary to eradicate the effects of the unlawful employment practices complained of above;
- F. Order Defendant to pay Smith punitive damages for its malicious or reckless conduct described above in an amount to be proven at trial;
- G. Order Defendant to pay similarly situated employees punitive damages for its malicious or reckless conduct described above in an amount to be proven at trial;
- H. Order Defendant to pay Smith nominal damages resulting from the unlawful practices complained of above;
- I. Grant such further relief as the Court deems necessary and proper in the public interest;
- J. Award the Commission its cost of this action.

**JURY TRIAL DEMAND**

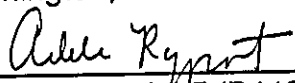
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

GWENDOLYN YOUNG REAMS  
Acting Deputy General Counsel

OFFICE OF GENERAL COUNSEL  
Trial Services Division  
1801 "L" Street, N.W.  
Washington, D.C. 20507

Dated: September 29, 2004

  
ADELE RAPPORT (P44833)  
Regional Attorney

ROBERT K. DAWKINS (P38289)  
Supervisory Trial Attorney

DALE PRICE ((P55578)  
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
DETROIT DISTRICT OFFICE  
Patrick V. McNamara Bldg.  
477 Michigan Avenue, Rm. 865  
Detroit, Michigan 48226  
Telephone: 313/226-5673

Steel/VMM

JS 44 11/99

**CIVIL COVER SHEET** COUNTY IN WHICH THIS ACTION AROSE: MACOMB

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

**I. (a) PLAINTIFFS**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

(b) County of Residence of First Listed

USA

**DEFENDANTS**

WOLVERINE BRONZE COMPANY

County of Residence of First Listed

MACOMB

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorney's Name

GEORGE CARAM STEEL

MAGISTRATE JUDGE MORGAN

(c) Attorney's (Firm Name, Address, and Telephone Number)

Dale Price (P55578), Equal Employment Opportunity Commission, 477 Michigan Avenue, Room 865  
Detroit, MI 48226 (313) 226-7808

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item 111)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |   |                            |   |                            |
|---|----------------------------|---|----------------------------|
| PLA                                     | DEF                        | PLA   | DEF                        |
| <input type="checkbox"/> 1              | <input type="checkbox"/> 1 | <input type="checkbox"/> 4                                | <input type="checkbox"/> 4 |
| Citizen of This State                   |                            | Incorporated or Principal Place of Business in This State |                            |
| <input type="checkbox"/> 2              | <input type="checkbox"/> 2 | <input type="checkbox"/> 5                                | <input type="checkbox"/> 5 |
| Citizen of Another                      |                            | Incorporated and Principal of Business in Another State   |                            |
| <input type="checkbox"/> 3              | <input type="checkbox"/> 3 | <input type="checkbox"/> 6                                | <input type="checkbox"/> 6 |
| Citizen or Subject of a Foreign Country |                            | Foreign Nation  |                            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21:861 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395(f)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DMC/DMM (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multi district Litigation  
☐ 7 Appeal to District Judge from Magistrate

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

This is an action brought under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices and to provide appropriate relief.

**VII. REQUESTED IN COMPLAINT:** ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 \$DEMAND

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) INSTRUCTIONS:**  
IF ANY

JUDGE

DOCKET NUMBER

DATE

9-28-04

SIGNATURE OF ATTORNEY OF RECORD

Dale Price

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_